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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,682	02/01/2001	Motoshi Asano	SON-2024	3648
23353 7590 06/08/2010 RADER FISHMAN & GRAUER PLLC LION BUILDING 1233 20TH STREET N.W., SUITE 501 WASHINGTON, DC 20036			EXAMINER POINVIL, FRANTZY	
			ART UNIT	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* MOTOSHI ASANO and MAKOTO YAMADA

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Appeal 2010-001225  
Application 09/774,682  
Technology Center 3600

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Before DALE M. SHAW, *Division 2 Support Administrator*.

ORDER REMANDING APPEAL TO EXAMINER

This is a Director ordered remand under 37 CFR §41.35(c) for the matter identified below. Accordingly, the application is herewith being remanded to the Examiner.

This application was electronically received at the Board of Patent Appeals and Interferences on November 16, 2009. A Docketing Notice was mailed and Appeal No. 2010-001225 was assigned on November 23, 2009.

Claims 17, 19, 21 and 22 of the instant application contain functional language that may be indefinite under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph. *See Ex Parte Rodriquez*, 2009 WL 3756279 (BPAI 2009) and *Aristocrat Techs.*

*Austl. Pty. Ltd. v. Int'l. Game Tech.*, 521 F.3d 1328 (Fed Cir. 2008). On September 2, 2008 the Deputy Commissioner for Patent Examination Policy, John J. Love, issued a memorandum entitled “Rejections under 35 U.S.C. 112, second paragraph, when examining means (or step) plus function claim limitations under 35 U.S.C. 112, sixth paragraph”, located at: [http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/section\\_112\\_6th\\_09\\_02\\_2008.pdf](http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/section_112_6th_09_02_2008.pdf) . Thus, there is a question as to whether claims 17, 19, 21 and 22 and the claims which depend upon these claims, meet the requirements of being definite under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph.

Accordingly, it is

ORDERED that the application is remanded to the Examiner to determine if claims 17, 19, 21 and 22 and the claims which depend upon these claims, meet the requirements of 35 U.S.C. § 112, 2<sup>nd</sup> paragraph.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS/mls

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